

Assembly Bill No. 1835

CHAPTER 526

An act to amend Sections 142 and 847 of the Penal Code, relating to peace officers.

[Approved by Governor September 13, 2002. Filed
with Secretary of State September 15, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1835, Bates. Peace officers: refusal to receive or arrest charged person: criminal or civil liability.

(1) Existing statutory law makes it a felony for any peace officer who has the authority to receive or arrest a person charged with a criminal offense to willfully refuse to receive or arrest that person, including a person arrested by a private person under a citizen's arrest.

This bill would provide that the above provision shall not apply to arrests made pursuant to the provisions authorizing a private person to make a citizen's arrest.

(2) Existing law provides that there shall be no civil liability on the part of, and no cause of action shall arise against, any peace officer acting within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest under specified circumstances, including that the arrest was made pursuant to the requirements of specified provisions.

This bill would provide that the above provision limiting the civil liability of a peace officer with respect to specified arrests shall apply to arrests made pursuant to the provisions authorizing a private person to make a citizen's arrest.

The people of the State of California do enact as follows:

SECTION 1. Section 142 of the Penal Code is amended to read:

142. (a) Any peace officer who has the authority to receive or arrest a person charged with a criminal offense and willfully refuses to receive or arrest that person shall be punished by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both that fine and imprisonment.

(b) Notwithstanding subdivision (a), the sheriff may determine whether any jail, institution, or facility under his or her direction shall be designated as a reception, holding, or confinement facility, or shall be

used for several of those purposes, and may designate the class of prisoners for which any facility shall be used.

(c) This section shall not apply to arrests made pursuant to Section 837.

SEC. 2. Section 847 of the Penal Code is amended to read:

847. (a) A private person who has arrested another for the commission of a public offense must, without unnecessary delay, take the person arrested before a magistrate, or deliver him or her to a peace officer.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any peace officer or federal criminal investigator or law enforcement officer described in subdivision (a) or (d) of Section 830.8, acting within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest under any of the following circumstances:

(a) The arrest was lawful, or the peace officer, at the time of the arrest, had reasonable cause to believe the arrest was lawful.

(b) The arrest was made pursuant to a charge made, upon reasonable cause, of the commission of a felony by the person to be arrested.

(c) The arrest was made pursuant to the requirements of Section 142, 837, 838, or 839.

